

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

JAAFAR HAMEED, et al.,

Plaintiffs,

v.

Case No. 11-15193

CITY OF DEARBORN, et al.,

Defendants.

ORDER DENYING PLAINTIFFS' MOTION FOR RECONSIDERATION

Plaintiffs Jaafar Hammed, Selma Hameed, Fatema Hammed, Fadila Hameed, Kothar Hameed, and Sadeq Hameed (collectively, "the Hammed Family"), sued the City of Dearborn and Robert Price ("Price"), a police officer for the City of Dearborn, alleging claims arising from Price's entry and search of Plaintiffs' home on August 18, 2009. Price purportedly unlawfully searched Plaintiffs' residence, physically assaulted members of the Hammed Family, and ignored Plaintiffs' requests to allow the female members of the Hameed Family to cover their heads in observance of their religion. Plaintiffs initially claimed that Price and the City of Dearborn violated their First and Fourth Amendment rights (Counts I and II, respectively), and were liable for assault and battery (Count III), intentional infliction of emotional distress (Count IV), and invasion of privacy (Count V). On January 19, 2012, the parties stipulated to an order dismissing without prejudice Counts I, III, IV, and V, leaving only Count II—Plaintiffs' unlawful search claim.

Defendants filed a motion for summary judgment on Count II which the court granted. Plaintiffs now move for reconsideration arguing that the court erred in failing to consider whether Price used unreasonable force against Plaintiff Jaafar Hameed (“Hameed”), in violation of the Fourteenth Amendment, and committed an unlawful seizure of Hameed in violation of the Fourth Amendment. For the reasons stated below, the court will deny the motion.

A motion for reconsideration shall be granted only if the movant can (1) “demonstrate a palpable defect by which the court and the parties . . . have been misled,” and (2) “show that correcting the defect will result in a different disposition of the case.” E.D. Mich. LR 7.1(h)(3). “A ‘palpable defect’ is a defect that is obvious, clear, unmistakable, manifest, or plain.” *United States v. Lockett*, 328 F. Supp. 2d 682, 684 (E.D. Mich. 2004). A motion for reconsideration that presents “the same issues ruled upon by the court, either expressly or by reasonable implication,” will not be granted. E.D. Mich. LR 7.1(h)(3); *see also Czajkowski v. Tindall & Assocs., P.C.*, 967 F. Supp. 951, 952 (E.D. Mich. 1997).

Plaintiffs argue that the court committed a palpable error by not considering whether Price used unreasonable force against Hameed, resulting in an unlawful seizure in violation of the Fourth and Fourteenth Amendments. In January 2012, the parties agreed to a stipulated order that dismissed four of the original five counts, (Stipulated Order at 2, Dkt. # 6), leaving only Count II: “Violation of Civil Rights Unreasonable Search,” (Pls.’ Compl. at 6, Dkt. # 1). Count II states, “The actions of Defendants PRICE and DOE . . . were all violations of the Fourth Amendment safeguards against unreasonable searches.” (*Id.*) Nowhere in Count II, or anywhere in

the complaint for that matter, do Plaintiffs allege that Defendants committed an unlawful seizure in violation of the Fourth Amendment or used unreasonable force in violation of the Fourteenth Amendment. The court did not analyze these legal claims in its August 30, 2012 order because they were not before the court on summary judgment. Therefore, Plaintiffs' have not demonstrated a "palpable defect" under which reconsideration can be granted. Accordingly,

IT IS ORDERED that Plaintiffs' motion for reconsideration [Dkt. # 30] is DENIED.

s/Robert H. Cleland
ROBERT H. CLELAND
UNITED STATES DISTRICT JUDGE

Dated: October 29, 2012

I hereby certify that a copy of the foregoing document was mailed to counsel of record on this date, October 29, 2012, by electronic and/or ordinary mail.

s/Lisa Wagner
Case Manager and Deputy Clerk
(313) 234-5522